

Congress intended to regulate under the 1940 Act, and that under the circumstances, AMBAC's status as a section 3(c)(6) excepted company should not prevent the SEC's grant of requested relief.

9. Applicant and any other future wholly-owned subsidiary of AMBAC relying on any order granting the application will comply with the provisions of rule 3a-5 except to the limited extent for which relief is sought in the application. AMBAC believes that any such future subsidiaries would be formed in response to business or market concerns, such as business differentiation between products or to more specifically manage the risks of different MIC categories.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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of the Security and believes that dual listing would fragment the market for the Security.

Any interested person may, on or before June 27, 1995 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

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to be notified of the date of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 7315 East Peakview Avenue, Englewood, Colorado 80111.

FOR FURTHER INFORMATION CONTACT: Marianne H. Khawly, Staff Attorney, at (202) 942-0562, or C. David Messman, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

APPLICANT'S REPRESENTATIONS

1. Applicant is a business development company ("BDC") within the meaning of section 2(a)(48) of the Act.¹ Applicant seeks an order pursuant to section 61(a)(3)(B) of the Act authorizing it to: (a) Grant options to purchase 100,000 shares of applicant's common stock to each current non-employee director of applicant on the date the Commission issues the order requested hereby (the "Order Date"); and (b) grant options to purchase 100,000 shares of applicant's common stock to each new non-employee director of applicant who may be elected or appointed to applicant's Board of Directors (the "Board") subsequent to the Order Date.

2. The Directors' Plan provides for non-discretionary grants of stock options to non-employee directors of applicant to acquire, in the aggregate, up to 500,000 shares of applicant's common stock. The Directors' Plan was adopted by the Board on April 1, 1993 (the "Effective Date") and approved by applicant's shareholders on December 28, 1993 for a ten year term commencing on the Effective Date. On April 20, 1995, the Board cancelled all options conditionally granted under the Director's Plan, none of which were exercisable or had been exercised, and adopted amendments to the Directors' Plan (the "Directors' Plan Amendments"). The Directors' Plan Amendments revised the Directors' Plan to provide that options shall automatically be granted not on the

[File No. 1-5951]

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (CMI Corporation, Voting Class A Common Stock, \$0.10 Par Value)

June 6, 1995.

CMI Corporation ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, in addition to being listed on the Amex, the Security is listed on the New York Stock Exchange, Inc. ("NYSE"). The Security commenced trading on the NYSE at the opening of business on May 24, 1995, and concurrently therewith the Security was suspended from trading on the Amex.

In making the decision to withdraw the Security from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of the Security on the NYSE and on the Amex. The Company does not see any particular advantage in the dual trading

[Investment Company Rel. No. 21116; 812-9428]

Equitex, Inc.; Notice of Application

June 6, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application under the Investment Company Act of 1940 (the "Act").

APPLICANT: Equitex, Inc.

RELEVANT ACT SECTION: Section 61(a)(3)(B).

SUMMARY OF APPLICATION: Applicant seeks an order authorizing applicant to issue stock options pursuant to applicant's Amended 1993 Stock Option Plan for Non-Employee Directors (the "Directors' Plan").

FILING DATES: The application was filed on December 14, 1994 and amended on April 24, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 3, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish

¹ Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) and makes available significant managerial assistance with respect to the issuers of such securities. Such issuers are small, nascent companies whose securities typically are illiquid. Certain of the regulatory restrictions of the Act are relaxed for BDCs.

Effective Date but rather on the Order Date.²

3. Applicant's primary investment objective is to achieve long-term capital appreciation through investing in new and developing companies and in companies which are experiencing financial difficulties. Applicant does not have an external "investment adviser" within the meaning of the Act. Applicant's investment decisions are made by its officers and directors. Applicant typically provides a substantial commitment of capital to its investee companies and makes available to them significant managerial assistance.

4. Each non-employee director of applicant receives \$1,500 for each Board meeting attended and reimbursement for expenses incurred in attending Board meetings. The non-employee directors do not receive any additional compensation for serving on applicant's audit or compensation committees. The non-employee directors do not receive compensation from applicant for providing managerial assistance to investees of applicant. Non-employee directors, may, however, receive nominal compensation from investee companies for serving on their boards of directors.

5. Each non-employee director of applicant, on the Order Date, will receive options to acquire 100,000 shares of applicant's common stock. Each person who becomes a non-employee director of applicant after the Order Date automatically will receive options to acquire 100,000 shares of applicant's common stock ninety days after the non-employee becomes a director. Currently, there are two non-employee directors who will be eligible to receive options under the Directors' Plan on the Order Date.

6. As of April 20, 1995, the aggregate amount of applicant's voting securities that would result from the exercise of all options issues or issuable under the Directors' Plan and applicant's existing employee stock option plan would be 1,289,786 shares, or approximately 19.99% of the 6,448,930 shares of applicant's common stock outstanding. Applicant has no warrants, options, or rights outstanding other than those granted to its directors, officers, and

employees as part of its employee stock option plan.

7. Options granted under the Directors' Plan will expire within ten years from the date of grant. Fifty percent of the options granted will vest and become exercisable six months following the date of grant, with the remaining fifty percent of the options exercisable ratably on a monthly basis over the following eighteen months. The exercise price of options granted under the Directors' Plan will be the current market value of applicant's common stock on the date the option is granted.

8. If a non-employee director ceases to be a director or is removed as a director of applicant for cause, all options granted to that director will terminate on the date of his removal as a director. If a non-employee director dies while in office, all options granted to such director may be exercised by such person's estate at any time within one year after the director's death, but not later than the expiration of the original term of the option. If a non-employee director ceases to be a director of applicant for any reason other than cause or death, all options granted to such director will terminate three months after the date the director ceases to be a director.

Applicant's Legal Analysis

1. Section 63(3) of the Act permits a BDC to sell its common stock at a price below current net asset value upon the exercise of any option issued in accordance with section 61(a)(3) of the Act.

2. Section 61(a)(3)(B) of the Act provides, in pertinent part, that a BDC may issue to its non-employee directors options to purchase its voting securities pursuant to an executive compensation plan, provided that: (a) the options expire by their terms within ten years; (b) the exercise price of the options is not less than the current market value of the underlying securities at the date of issuance; (c) the proposal to issue such options is approved by the company's shareholders, and is authorized by order of the Commission upon application; (d) the options are not transferable except for the dispositions by gift, will or intestacy; (e) no investment adviser of the company receives any compensation described in section 205(1) of the Investment Advisers Act of 1940, except to the extent permitted by clause (A) or (B) of that section; and (f) the company does not have a profit-sharing plan as described in section 57(n) of the Act.

3. In addition, section 61(a)(3)(B) provides that the amount of the company's voting securities that would

result from the exercise of all outstanding warrants, options, and rights at the time of issuance may not exceed 25% of the company's outstanding voting securities except that if the amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights issued to such company's directors, officers, and employees pursuant to an executive compensation plan would exceed fifteen percent of the company's outstanding voting securities, then the total amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance shall not exceed twenty percent of the outstanding voting securities of such company.

4. Applicant asserts that the Directors' Plan and the stock options to be granted automatically to applicant's non-employee directors, and the stock options to be granted automatically to each new non-employee director of applicant who joins applicant's Board subsequent to the Order Date, pursuant to such plan would meet all applicable requirements of the Act: (a) The options will expire by their terms within ten years; (b) the exercise price of the options will not be less than the current market value of the underlying securities at the date of the issuance of the options; (c) the proposal to issue the options has been authorized by applicant's shareholders; (d) the options will not be transferable except for disposition by gift, will, or intestacy; (e) applicant does not have an investment adviser; and (f) applicant does not have a profit-sharing plan described in section 57(n). In addition, the total amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance will not exceed 20% of the outstanding voting securities of applicant.

5. Applicant asserts that in order to attract and retain qualified personnel, it must provide non-employee directors with incentives in the form of an executive compensation program. Applicant believes that the skill and experience of its management and directors are critical to its success. Applicant asserts that its directors are actively involved in the oversight of applicant's affairs, and that it relies extensively on the judgment and experience of the directors. In addition, applicant represents that one or more of its officers and directors often are elected to the boards of directors of its portfolio companies.

6. Applicant submits that the terms of the Directors' Plan and the stock options

²Section 61(a)(3)(B) requires that the proposal to issue stock options to non-employee directors of a BDC, pursuant to an executive compensation plan, be authorized by SEC order before any such options are issued. Since the options initially were issued without the required SEC order, applicant cancelled the outstanding options and proposes to reissue them, in accordance with section 61(a)(3)(B), upon receiving the order requested hereby.

to be granted automatically to applicant's non-employee directors are fair and reasonable and do not involve any overreaching of applicant or its shareholders. The total number of shares for which options would be granted under the Directors' Plan would depend on whether there are changes in applicant's Board. If the two non-employee directors currently serving on applicant's Board exercised all of the options proposed to be granted to them, 200,000 shares, or approximately, 3.1% of applicant's outstanding common stock, will be issued under the Directors' Plan. If all options available for grant under the Directors' Plan are granted and exercised, 500,000 shares, or approximately 7.8% of applicant's common stock will be issued. Given these relatively small amounts of stock, applicant submits that the exercise of the options will not have a substantial dilutive effect on the net asset value of the common stock of applicant.

7. Applicant asserts that because 50% of the stock options granted to a non-employee director would vest six months following the date of grant, and the remaining 50% would vest ratably on a monthly basis over the next eighteen months, the plan would provide non-employee directors with incentives to remain with applicant. In addition, applicant contends that because the options granted pursuant to the plan have no value unless the price of applicant's common stock exceeds their exercise price, the options provide significant incentives for non-employee directors to devote their best efforts to the success of applicant's business. The options also provide a means for applicant's thereby helping to ensure a closer identification of their interests with those of applicant and its shareholders. Applicant contends that incentives in the form of stock options enable it to maintain continuity in its board membership and to attract and retain as directors the highly experienced, successful, and dedicated business and professional people that are critical to its success as a BDC and to the success of its investee companies.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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[File No. 1-10567]

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (International Murex Technologies Corporation, Common Stock, No Par Value)

June 6, 1995.

International Murex Technologies Corporation ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, its Board of Directors ("Board") approved resolutions on May 4, 1995 to withdraw the Company's Security from listing on the Amex and, instead, list such Security on the National Association of Securities Dealers Automated Quotations National Market System ("Nasdaq/NMS"). The decision of the Board followed a lengthy study of the matter and was based upon the belief that listing the Security on the Nasdaq/NMS will be more beneficial to the Company's shareholders than the present listing on the Amex because the Company believes:

(1) the Nasdaq/NMS system of competing market makers will result in increased visibility and sponsorship for the Security than is presently the case with the single specialist on the Amex; (2) the Nasdaq/NMS system will offer the Company's shareholders more liquidity than is presently available on the Amex and less volatility in quoted prices per share when trading volume is slight;

(3) the Nasdaq/NMS system will offer the opportunity for the Company to secure its own group of market makers and expand the capital base available for trading in the common stock; and

(4) the firms making a market in the Security on the Nasdaq/NMS system will also be inclined to issue research reports concerning the Company, thereby increasing the number of firms providing institutional research and advisory reports.

Any interested person may, on or before June 27, 1995 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application

has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

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[File No. 1-2207]

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Triarc Companies, Inc. Class A Common Stock, \$.10 Par Value)

June 6, 1995.

Triarc Companies, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the Pacific Stock Exchange Incorporated ("PSE").

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, the Security is currently listed on both the New York Stock Exchange ("NYSE") and the PSE. The Company believes the added cost of maintaining both listings outweighs any incremental benefit the Company receives. Accordingly, the Company desires to terminate its listing on the PSE while maintaining its listing on the NYSE.

Any interested person may, on or before June 27, 1995, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.